

Message Text

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ORIGIN L-03

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DRAFTED BY L:MDSANDLER:L/EA:PMNORTON:MAD

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FM SECSTATE WASHDC

TO AMEMBASSY MANILA

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E.O. 11652: NA

TAGS: PGOV, PINS, RP

SUBJECT: LIBEL ACTION AGAINST PRESIDENT MARCOS ET AL

REFS: (A) MANILA 11864; (B) MANILA 12210

1. OUR INFORMATION IS THAT A LIBEL ACTION HAS BEEN BROUGHT IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA LOCATED IN SAN FRANCISCO. HAVE HEARD THAT THE DEFENDANTS INCLUDE PRESIDENT MARCOS, CONSUL GENERAL ALCONCEL OF SAN FRANCISCO CONSULATE, GUILLERMO VEGA, ROMEO R. OCHOCO, FABIANA C. VER, VICTOR NATIVIDAD, AND JOSE T. INGLES. HAVE ALSO HEARD THAT THERE HAS NOT YET BEEN ATTEMPT TO MAKE SERVICE OF PROCESS ON ANY OF REPORTED DEFENDANTS.

2. WE DO NOT HAVE SUFFICIENT INFORMATION TO OFFER ANYTHING BUT PRELIMINARY OBSERVATIONS. HOWEVER, IN GENERAL GOP SHOULD BE ENCOURAGED TO USE ITS ACTING CONSUL-GENERAL TO PROTECT ITS INTERESTS. IF HE RETAINS LOCAL U.S. COUNSEL, HE MIGHT DISCOVER THAT SUIT COULD BE DISMISSED FOR LACK OF JURISDICTION, ABSENCE OR IMPOSSIBILITY OF SERVICE OF PROCESS, OR OTHER PRELIMINARY PROCEDURAL GROUNDS. THE
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PROBLEM IS THAT THE DEPARTMENT DOES NOT KNOW ALL THE FACTUAL AND LEGAL DETAILS AND IS NOT ABLE OR EQUIPPED TO

FIND OUT.

3. IF GOP BELIEVES THAT SUIT MAY NOT BE DISPOSED OF ON PRELIMINARY PROCEDURAL GROUNDS, IT MAY, DEPENDING ON THE FACTS, WISH TO SEND A DIPLOMATIC NOTE REQUESTING THE DEPARTMENT TO MAKE A SUGGESTION OF SOVEREIGN IMMUNITY. NATURALLY, WE WOULD BE AS HELPFUL AS POSSIBLE, BUT, IN ABSENCE OF FACTS AND WITHOUT GIVING PLAINTIFF AN OPPORTUNITY TO SUBMIT HIS VIEWS ON THE SOVEREIGN IMMUNITY ISSUES, WE COULD NOT VENTURE ANY OPINION AS TO WHETHER WE COULD, IN FACT SUGGEST IMMUNITY IN THIS CASE. IN ANY EVENT, GOP SHOULD FIRST MOVE TO PROTECT ITS INTERESTS IN COURT AND ONLY SUBSEQUENTLY DETERMINE WHETHER OR NOT TO REQUEST A SUGGESTION OF IMMUNITY.

4. GOP EMBASSY HERE HAS NOT YET MADE ANY DIRECT APPROACHES TO DEPARTMENT IN CONNECTION WITH THIS CASE. ROBINSON

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